STATE OF MICHIGAN

COURT OF APPEALS

LINDA BOYD,

Plaintiff-Appellee,

v

WARREN RESTAURANTS, INC, a/k/a COUNTRY BOY DELI DELIGHTS,

Defendant-Appellant.

UNPUBLISHED
July 3, 2001

No. 217029
Oakland Circuit Court
LC No. 98-004157-NO

Before: K. F. Kelly, P.J., and O'Connell and Cooper, JJ.

COOPER, J. *(dissenting).*

I respectfully dissent from the opinion of my colleagues.

Michigan has long provided invitees with the highest level of protection under premises liability law. *Quinlivan v Great Atlantic & Pacific Tea Co, Inc*, 395 Mich 244, 256, 235 NW2d 732 (1975).

> The landowner has a duty of care, not only to warn the invitee of any known dangers, but the additional obligation to also make the premises safe, which requires the landowner to inspect the premises and, depending upon the circumstances, make any necessary repairs or warn of any discovered hazards. [*Stitt v Holland Abundant Life Fellowship*, 462 Mich 591, 597; 614 NW2d 88 (2000); see also *James v Alberts*, ___ Mich ___; 626 NW2d 158 (2001).]

Clearly, the raised sidewalk was a condition that existed for a substantial period of time. It was also the only entrance way into the restaurant. Consequently, it becomes a question of fact for the jury to decide whether plaintiff should have made the necessary repairs to avoid any unreasonable risk of harm. "The issue of an invitor's breach of duty as to an invitee raises a question of fact for the jury." *Perry v Hazel Park Harness Raceway*, 123 Mich App 542, 549; 332 NW2d 601 (1983).

I would affirm the decision of the trial judge.

/s/ Jessica R. Cooper